THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18014 OF 1996

Dated: 12-04-2007

Between :

1. M. Viswanatha Sastry and another. .... Petitioners

and

The Revenue Divisional Officer, Kurnool,
Kurnool District. ... Respondent

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18014 OF 1996

ORDER :

This writ petition is filed seeking a declaration that the order of the 1st respondent – Revenue Divisional Officer, Kurnool, dated 3-11-1995 under which the request of the writ petitioners for grant of caste certificate as "Beda Jangam" was rejected as arbitrary and illegal.

The petitioners herein, who are related, claim that they belong to Beda Jangam community, generally called as Jangam community which is categorized as a Scheduled Caste. In the School Leaving Certificate of the father of the 2nd petitioner relating to the period from 1914 to 1920, his caste was shown as Beda Jangam.

However, when the petitioners made applications before the respondent – Revenue Divisional Officer for issue of caste certificate to their children the same was rejected by proceedings dated 20-6-1995. Aggrieved by the same, the petitioners filed W.P.No.13606 of 1995. This Court disposed of the said writ petition by order dated 27-7-1995 holding that the School Leaving Certificate relating to the father of the 2nd petitioner for the period 1914-1920 when the question of reservation was not even thought of has got high probative value and the same should be received as clinching evidence. Accordingly, the respondent was directed to hold fresh enquiry taking into consideration the said School Leaving Certificate in the light of the guidelines issued by the Supreme Court in MADHURI PATIL v. ADDL. COMMR., TRIBAL DEPARTMENT[1] and pass appropriate orders within a period of three months.

Pursuant thereto, the respondent passed the impugned order dated 3-11-1995 rejecting the applications of the petitioners for caste certificates as Beda Jangam holding that the petitioners belong to Jangam Caste which comes under BC category but not Beda Jangam, a Scheduled Caste.

I have heard the learned Senior Counsel Sri S. Venkat Reddy appearing for the petitioner and the Government Pleader for Social welfare appearing for the respondent.

As could be seen from the impugned order dated 3-11-1995 the same was passed on the basis of the reports submitted by the Mandal Revenue Officer, Kurnool, dated 30-10-1995 and the Mandal Revenue Officer, Nandikotkur dated 31-10-1995 recommending for rejection of the claim of the petitioners that they belong to Beda Jangam caste. In both the said reports it was concluded that in the enquiries conducted by them in the native villages of the petitioners it was found that they did not belong to Beda Jangam caste. So far as the School Leaving Certificate relating to the father of the 2nd petitioner, it was observed that since the original records were not available the same cannot be taken into consideration in deciding the social status claimed by the petitioners.

It is primarily contended by the petitioners that the impugned order which was solely based upon the reports of the Mandal Revenue Officers, Kurnool and Nandikotkur is arbitrary, illegal and violative of the principles of natural justice since there was no notice to the petitioners in the enquiry said to have been conducted by the Mandal Revenue Officers, Kurnool and Nandikotkur and even the copies of the enquiry reports were not furnished to them.

The specific allegation that the said enquiries conducted by the Mandal Revenue Officers were behind the back of the petitioners and that the enquiry reports were not furnished to them has not been denied by the respondent in the counter-affidavit. However, on merits, it was contended that the respondent had rightly rejected the social

status claimed by the petitioners.

The law is well-settled that any administrative action is required to be in conformity with the principles of natural justice or fairness. It is not only essential that the person against whom action is proposed is given a prior notice about the nature of the action proposed and the grounds on which such action is proposed but it is equally necessary to furnish the material on which the allegations are based so as to enable such person to meet the allegations effectively.

In a catena of decisions, it has been held by the Courts that the only test to decide the reasonableness of fair hearing is that the Courts conscience must be satisfied that the person against whom an action is proposed has had a fair chance of establishing that the proposed action is not warranted and unjustified.

In the instant case, since admittedly the impugned order is based upon the enquiry reports of the Mandal Revenue Officers, Kurnool and Nandikotkur, I am of the opinion that the failure to furnish the copies of such reports to the petitioners particularly since the enquiry was conducted behind their back, had undoubtedly denied the petitioners an opportunity to convince the respondents that the conclusions arrived at by the Mandal Revenue Officers, Kurnool and Nandikotkur are incorrect and without any basis. Consequently, the impugned order which is opposed to the fundamental principles of natural justice is bad and liable to be set aside on that ground alone.

It is also relevant to note that by the date of the impugned order dated 3-11-1995 the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993) was already enacted. However, since the said Act was enforced w.e.f. 16-5-1997, the detailed enquiry as prescribed under the said Act and the Rules made thereunder was not conducted.

In the circumstances, while setting aside the impugned order

dated 3-11-1995 which is not in conformity with the principles of natural justice, it would be appropriate to direct a fresh enquiry as prescribed under the Act 16 of 1993 and the Rules made thereunder.

Accordingly, the impugned order dated 3-11-1995 is set aside and the Writ Petition is disposed of with a direction to conduct a fresh enquiry in accordance with the provisions of Act 16 of 1993 and the Rules made thereunder and to pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of 6 months from the date of receipt of this order. No costs.

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G. ROHINI, J.

Dt. 12–4-2007

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[1] AIR 1995 SUPREME COURT 94